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Email from Chris Kwan
Sent: Tue 4/15/03 7:59 AM
To: David Le, Examiner
Re: Application 09/396005 – Final Rejection

Dave,

Thank you for your help here, I have just faxed you the authority but at the same time, I received the physical copy of your action letter. So I guess there is no need to fax or email to me now.

Secondly, I am wondering if it is appropriate that I ask question at this stage. The last time I ask a few questions, I got a rebuttal from one of the examiner saying this is not the way USPTO conduct its business.

My question pertains to Section 102(e) which you quoted. I was thinking (and correct me if I am wrong) that since my application filed Sept-13-1999, it would be examined under the old 102(e) and it was not published in the US. Furthermore the claims in the Australian application were radically different from the amended ones used herein.

I found this under MPEP 2136.01

When examining any application filed prior to November 29, 2000 which has not been voluntarily published (pre PG-PUB application), the application is subject to the former version of 35 U.S.C. 102(e) set forth below...

I believed you have used the new version. My question is that I am not sure whether SIR (Statutory Invention Registration) is part of this so called publication US 2002/0073046A1 by David. My apology if I am out of line here.

Secondly, I will find out what happen to the priority thing. As far as I know it may have been abandoned since I have yet to pay the examination fee. In any event even if it has been withdrawn and hence I am only entitled for the US filing date Sept 13, 1999, this would make only one of the provisional application in David's to have any material effect. Note that David's patent application publication is a continuation of one filed on 8 Feb 2000 which claims priority for a provisional files on Nov 24, 1999 and Jul 30, 1999. I would need to know that the Jul 30, 1999 has elements affecting my application for a 102(e).

I know its a mouthful and hope you will be able to give me some feedback here so I can understand what are the best options for me. Like I said above, if this kind of questions are inappropriate let me take this opportunity to apologise first.

Thks

CK